

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

J. TRENT MOSBY,

Plaintiff,

v.

ORDER

Civil File No. 08-216 (MJD/FLN)

NATIONAL TOXICOLOGY LABS, INC.,

Defendant.

J. Trent Mosby, pro se.

Richard A. Lind, Lind Jensen Sullivan & Peterson, PA, Counsel for Defendant.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Franklin L. Noel filed June 9, 2008. [Docket No. 11] Plaintiff J. Trent Mosby filed objections to the Report and Recommendation. Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b).

As the Report and Recommendation correctly noted, if, in a case removed

based on diversity jurisdiction, a plaintiff files a stipulation to clarify that the amount of damages sought in the complaint is below \$75,000, the Court will remand the matter to state court. Dyrda v. Wal-Mart Stores, Inc., 41 F. Supp. 2d 943, 946 (D. Minn. 1999). Mosby has now filed an appropriate stipulation [Docket No. 13], to which Defendant does not object [Docket No. 17]. Therefore, the Court will not adopt the Report and Recommendation and will remand this matter to state court.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Court declines to adopt the Magistrate Judge's Report and Recommendation filed June 9, 2008 [Docket No. 11].
2. Plaintiff's Motion for Remand [Docket No. 3] is **GRANTED**.
3. This matter is **REMANDED** to the District Court for the Third Judicial District, Olmsted County, Minnesota.

Dated: July 13, 2008

s / Michael J. Davis
Michael J. Davis
Chief Judge
United States District Court